

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Acampora	Team: Squad #4	CCRB Case #: 201404097	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/22/2014 12:45 PM	Location of Incident: Transit Bureau District 12 Stationhouse	Precinct: 48	18 Mo. SOL 10/22/2015	EO SOL 10/22/2015	
Date/Time CV Reported Tue, 04/29/2014 10:38 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/29/2014 10:38 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Evan Cruz	24436	941598	TB BQTF
2. SGT Jose Gautreaux	02357	938542	TB BQTF

Officer(s)	Allegation	Investigator Recommendation
A.POM Evan Cruz	Force: PO Evan Cruz used physical force against § 87(2)(b) [REDACTED]	
B.SGT Jose Gautreaux	Force: Sgt. Jose Gautreaux used physical force against § 87(2)(b) [REDACTED]	
C.POM Evan Cruz	Abuse: PO Evan Cruz did not obtain medical treatment for § 87(2)(b) [REDACTED]	

Case Summary

- On April 22, 2014, at approximately 12:45 p.m., § 87(2)(b) was arrested and brought to the Transit Bureau District 12 stationhouse in the Bronx. § 87(2)(b) was placed in a holding cell by his arresting officer, PO Evan Cruz. PO Cruz and Sgt. Jose Gautreaux attempted to obtain § 87(2)(b)'s shoelaces, but § 87(2)(b) refused to comply with them. Instead, he verbally refused, placed his hands in his pockets, and moved away from the officers. PO Cruz and Sgt. Gautreaux swept § 87(2)(b)'s feet and took him to the ground (with § 87(2)(b) landing on his chest). § 87(2)(b) alleged that, once he was on the ground, the officers pulled on the left handcuff, causing his right arm to be yanked behind him. Sgt. Gautreaux then kned him in the back four times (**Allegations A and B**). § 87(2)(b) told the officers present that he wanted to go to the hospital, and PO Cruz told him the if went to the hospital he would be charged with resisting arrest, assaulting an officer, and a third (unknown) charge (**Allegation C**). § 87(2)(b) told PO Cruz that he did not want to go to the hospital. He was then brought to Central Booking for processing.

Mediation, Civil and Criminal Histories

- A request for a notice of claim has been submitted, and is pending receipt (encl. 19A-19B). As a result of § 87(2)(b)'s arrest, this case was ineligible for mediation. § 87(2)(b) [§§ 86(4)(2)&(3)&(4)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- PO Cruz has been a member of the NYPD for eight years, and has no previous CCRB allegations (encl. 1A).
- Sgt. Gautreaux has been a member of the NYPD for nine years, and has no previous CCRB allegations (encl. 2A).

Findings and Recommendations

Allegation A—Force: PO Evan Cruz used physical force against § 87(2)(b)

Allegation B—Force: Sgt. Jose Gautreaux used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) refused to give PO Cruz his shoelaces, and PO Cruz and Sgt. Gautreaux then entered his cell, took him to the ground, and handcuffed him.

§ 87(2)(b) alleged that, once he was on the ground, the officers pulled on the left handcuff, causing his right arm to be yanked behind him. Sgt. Gautreaux then kned him in the back four times (encl. 5A-5C).

The officers acknowledged pulling § 87(2)(b)'s arms behind his back, but denied striking him with their knees (encl. 8A-8B, 11A-11B). § 87(2)(b)'s medical records note that he had lower back strain, but this injury is not documented as being the result of the incident with the police.

§ 87(2)(g)

Allegation C—Abuse of Authority: PO Evan Cruz refused to obtain medical treatment for

§ 87(2)(b)

§ 87(2)(b) alleged that he said that he wanted to go to the hospital, and that PO Cruz replied that if he went to the hospital, he would be charged with resisting arrest, assaulting an officer, and a third (unknown) additional charge, thereby coercing § 87(2)(b) to decline medical treatment, which he eventually did (encl. 5A-5C).

PO Cruz stated that § 87(2)(b) said he wanted to go to the hospital, and that he responded by telling him he would take him to the hospital after he finished processing him. § 87(2)(b) told PO Cruz that was fine, as long as he got to go to the hospital. Approximately 30 minutes later, PO Cruz returned to the cells after processing § 87(2)(b) and asked him if he still wanted to go to the hospital. § 87(2)(b) said that he no longer wanted to go to the hospital, and that he just wanted to get it [Central Booking] over with (encl. 8A-8B). Sgt. Gautreaux stated that he did not hear § 87(2)(b) ask to go to the hospital (encl. 11A-11B).

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date